

Juvenile Justice Improvement Committee
Judicial Conference of Indiana

Minutes
February 6, 2004

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, February 6, 2004 from 12:00 noon until 3:00 p.m.

1. Members present. Robert R. Aylsworth, Stephen R. Heimann, James W. Payne, Daniel L. Pflum, R. Paulette Stagg, and Mary R. Harper, chair.
2. Staff present. Jeffrey Bercovitz and Anne Jordan provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on January 9, 2004 were approved.
4. Guests present. Cathy Boggs, Asst. Director, Division of Mental Health and Addiction, (DMHA) FSSA; Cheryl Shearer, Bureau Chief – Children’s Service, DMHA; Natalie Angel, Manager of Communication, DMHA; Cathy Graham, Executive Director, Indiana Association of Residential Child Care Agencies; and Jimmie McMillian, Law Clerk for Justice Sullivan were present.
5. Recent legislation. Committee members reviewed Senate bills 1, 104, 194, 220, 261, 367 and House bills 1082, 1194, 1268, 1330, and 1449.
6. Mental health services for juveniles.
 - a. Cheryl Shearer, DMHA, distributed the following materials: Overview of Virginia Incompetent to Proceed Program for juveniles, Chart with summaries of selected state statutes on Incompetent to Stand Trial (ICST); and Virginia, Georgia, Florida and Texas ICST statutes. She said the DMHA favors the Virginia approach with treatment of ICST juveniles in the community. Cheryl Shearer reported the Supreme Court in Virginia trains and certifies evaluators for ICST at about \$5,000 per day at a conference. The state pays \$600,000 annually to provide restoration services.
 - b. Cheryl Shearer distributed an overview of an application for participation in a National Policy Academy for youth with mental health and co-occurring substance use disorders involved in the juvenile justice system. Cathy Boggs reported this national policy academy would not permit Indiana to focus on the issue of ICST at the state level. Cathy Boggs said the agency’s resources would not permit participation in the academy at the national level and an effort to have a state academy for ICST juveniles. Committee members agreed to participate in an Indiana policy committee on ICST juveniles and made suggestions for others to include. Cheryl Shearer said Natalie Angel would take the lead in gathering information on ICST juveniles.
 - c. Cheryl Shearer distributed two mental health screening tools for juveniles 0-5 years of age and 5-adult used in California. She reported the DMHA would discuss the “roll-out” of these instruments on Monday, Feb. 23 from 10:00 a.m. – 12:00 Noon at IGCS auditorium. OFC family case managers would administer this tool within 2 weeks of removal from the home. She said the instruments were validated and would be built into ICWIS. Phase I of the rollout would include 4-8 counties, their OFC’s and community mental health centers. This will assist Indiana

in answering a concern about failed placements Indiana must address in the CFSR. Committee members questioned, (1) when the court would see the results of this screening, (2) whether resources would be available to address the evaluation the screening called for, and (3) whether the terminology of the proposed screening instruments would qualify most juveniles removed from the home under Indiana's CHINS laws for mental health services. Judge Payne reported he uses a different instrument for his "Jump-Start" program in this area.

d. Cheryl Shearer distributed a fact sheet on the Home and Community Based (HCBS) Medicaid Waiver Task Force for Children with Serious Emotional Disturbance (SED) and a map show waiver sites, slots available and systems of care. Jeff Bercovitz distributed a press release from FSSA on this Medicaid Waiver. Committee members agreed that this information should be distributed to judges, which is less technical than the handout and more technical than the press release. The map should be simplified as well.

7. Presentation by Cathy Graham.

a. Jeffrey Bercovitz distributed IC 12-26-1-4 and IC 12-26-8, the civil commitment statutes for juveniles. He explained juvenile courts could not make mental health commitments of juveniles to state institutions, but could use the civil commitment statutes to commit to childcare institutions that are locked. Cathy Graham indicated the use of civil commitment for CHINS and status delinquents does not violate the Juvenile Justice Delinquency Prevention Act. Committee members expressed concern about getting a doctor's statement for a civil commitment, which is involuntary, and whether the Family and Children's Fund pays for CHINS or status delinquents committed under this statute.

b. Cathy Graham distributed the proposed final rule for licensing of facilities that provide psychiatric residential treatment services for children and a map of "private secure facilities" that meet the rule. She said the Medicaid payments under this rule are an entitlement and the state Medicaid office estimates this will cost \$91,000,000 million dollars. Feb. 10 will be the final hearing on the rule.

c. Cathy Graham said IARCCA publishes outcomes in aggregate. Each facility must be contacted for their individual data.

8. Other business. Jeffrey Bercovitz distributed:

a. Senate Bill 353, Interstate Compact for Juveniles Resource Kit, and the present rules and regulations of the juvenile compact. Committee members agreed to discuss this information and its implications at their next meeting;

b. A letter from the Children's Law Center about the release of information about Marion County Superior Court - Juvenile Division that appeared in the Indianapolis Star. Committee members agreed by consensus to invite Children's Law Center board members and funding sources to the next meeting. They would discuss the committee's concern about releasing information not in aggregate form and before a draft could be shared with the committee as promised;

c. **Doe v. Heck**, 327 F.3d 492 (7th Cir. 2003) which indicates a parent may sue caseworkers for violations of the Fourth and Fourteen Amendments for talking with their child during an abuse investigation without parental notification or consent; and

d. Newspaper articles concerning juvenile issues.

9. Next meeting dates. Committee members agreed to meet again on the following dates: March 5, 2004, May 7, 2004, and June 4, 2004, all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law